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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,558	08/22/2005	Anja Czaykowska	10191/3712	5277
26646	7590	12/03/2007	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004		WEBB, TIFFANY LOUISE		
		ART UNIT		PAPER NUMBER
		3616		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/520,558	CZAYKOWSKA ET AL.
	Examiner Tiffany L. Webb	Art Unit 3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_;
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 8-14 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 8-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 January 2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/5/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

1. The examiner acknowledges the cancellation of claims 1-7.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 1/5/2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. The cited US patents have been reviewed and accepted. However, the foreign applications which were not included have not been considered.

### ***Drawings***

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the current drawings and replacement drawings contain informalities and several include hand-written notes, which are unacceptable. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 8-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In claims 8 and 13, the claims state "the sitting position determining an evaluation of the at least one signal." The specification does not clarify how the sitting position would determine the signal.

6. Claims 8-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claims 8 and 13 are unclear. Each claims "the sitting position determining an evaluation of the at least one signal." It is unclear from the claim what is being claimed and how the sitting position would be able to do the determining of the signal. Further it is unclear what the signal entails. If the signal is the acceleration signal, it is unclear how the sitting position would determine the acceleration signal. The examiner suggests clarifying.
- In claims 8, 10, and 13, "at least one signal" should be clarified. In claims 8 and 13, they state "the crash severity being determined by at least one signal derived from an acceleration." It is unclear from the wording whether the at least one signal is always an acceleration signal or whether it is a generic signal. The examiner suggests clarifying what constitutes "at least one signal."

- Claim 11 recites the limitation "the second airbag stage" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. Further, it is unclear because no first stage of an airbag is discussed. Further, a belt-tensioner is the current invention, and it is unclear from the claim how this relates to the airbag.
- In claim 12, "the second stage belt tensioner" should be "the second stage of the belt tensioner" in order to provide proper antecedent basis.
- Although the claims lack clarity, the examiner has attempted to apply art to the claims that she believes would reject the claims when written in better form.

***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Signals are non-statutory subject matter. The examiner suggests clarifying.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 8-10 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gioutsos et al. (US 5,400,487). Regarding claims 8 and 13, Gioutsos et al. discloses

a method for triggering a two-stage belt tensioner (see col. 6, lines 13-20), comprising: triggering a first stage of the belt tensioner; and triggering a second stage of the belt tensioner as a function of a crash severity and a sitting position, the crash severity being determined by at least one signal (24) derived from an acceleration (16) ascertained during a collision, and the sitting position determining an evaluation of the at least one signal (see col. 4, lines 1-18). Regarding claim 9, Gioutsos et al. discloses that if the crash severity indicates a hard crash, the second stage is triggered after a specified time following the triggering of the first stage (see col. 3, line 44- col. 4, line 18). Regarding claim 10, Gioutsos et al. discloses that if the crash severity indicates a soft crash, the second stage is triggered as a function of a signal pattern of the at least one signal (see col. 4, lines 1-18). Regarding claim 14, Gioutsos et al. discloses having an external crash sensor to determine the acceleration (14).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gioutsos et al. (as cited above). Gioutsos et al. is discussed above and fails to disclose having the second stage of the belt tensioner triggered with the second stage of an airbag, and further the a knee airbag being deployed at the same time as a second stage of the belt tensioner. However, Gioutsos et al. discloses having the two

stage system being used for both belt tensioners and airbag systems. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have both a belt tensioner and airbag operating with a two stage system at the same time in order to provide better protection. It would have been obvious to try based on Gioutsos et al. in which they disclose using the two stage system for both airbags and belt tensioners. Further, based on the above, it would have been further obvious to have a knee airbag deploy with a second stage of a belt tensioner. Knee airbags are well known in the art and it would have been obvious to try to put a knee airbag with a belt tensioner in order to better protect a vehicle occupant.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following have multiple stages of safety devices: Liu (US 5,999,871), Foo et al. (US 6,036,225), and Itoga (US 7,237,800).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiffany L. Webb whose telephone number is 571-272-2797. The examiner can normally be reached on 8-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Tiffany L. Webb  
Examiner  
Art Unit 3616

tlw

 11/29/07  
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